PRELIMINARY 45-DAY EXAMINATION OF

THE RHODE ISLAND RESOURCE RECOVERY CORPORATION

SUMMARY OF FINDINGS

MARCH 2008

DEPARTMENT OF ADMINISTRATION

BUREAU OF AUDITS

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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March 13, 2008

Honorable Donald L. Carcieri, Governor
State of Rhode Island and Providence Plantations
State House
Providence, Rhode Island 02903

Dear Governor Carcieri:

The Bureau of Audits ("Bureau") completed a preliminary 45-day examination of the Rhode Island Resource Recovery Corporation ("Corporation") and has produced the enclosed preliminary Summary of Findings.

The examination was conducted in response to your written request, dated January 23, 2008, that the Bureau:

[T]ake all reasonable and necessary steps to audit the [Corporation] as follows:

- *There has been compliance with all laws and regulations applicable to the Corporation.*
- *All expenditures are legal and proper, all accounting procedures and accounting records for significant financial transactions are proper, all financial transactions with those doing business with the corporation have been for fair market value and that there have been no defalcations, irregular practices or frauds.*
- *There have been no unusual practices, including pricing favoritism for services rendered or any above market or below market transactions.*
- *All persons having fiduciary duties to the Corporation have faithfully and impartially carried out their obligations.*

The Bureau of Audits shall transmit its findings and recommendations in writing [to the] Governor's Office within 45 days.

Our understanding is that the examination was commissioned in response to memoranda to you dated November 12, 2007 from the Corporation's Executive Director, Michael J. OConnell (collectively, the "OConnell Memo"). The OConnell Memo details concerns regarding the Corporation's real estate transactions, Central Landfill Remediation Trust, Money Purchase Pension Plan, and various civic and charitable contributions.

The Bureau's examination focused primarily on the areas addressed in the OConnell Memo, but included consideration of the appropriateness of other issues coming to our attention in light of the Corporation's missions, and the laws and regulations to which it is subject. To that end, we consulted with the Department of Administration's Division of Legal Services to obtain applicable legal guidance and interpretation in conjunction with our procedures.

Very truly yours,

H. Chris Der Vartanian, CPA

H. Chris Der Vartanian, CPA
Chief, Bureau of Audits

Cc: Michael J. OConnell, Executive Director
Rhode Island Resource Recovery Corporation

PRELIMINARY 45-DAY EXAMINATION OF THE RHODE ISLAND RESOURCE RECOVERY CORPORATION

SUMMARY OF FINDINGS

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PRELIMINARY 45-DAY EXAMINATION OF THE RHODE ISLAND RESOURCE RECOVERY CORPORATION

EXECUTIVE SUMMARY

At the request of the Governor of the State of Rhode Island and Providence Plantations ("State"), the Bureau of Audits ("Bureau"), conducted a preliminary 45-day examination ("examination") of the Rhode Island Resource Recovery Corporation ("Corporation"), a quasi-public corporation established in 1974 by an Act of the Rhode Island General Assembly.

As noted in the "Background" section of this Summary of Findings, the original statutory purpose of the Corporation was (and primarily continues to be) to provide and coordinate solid waste management services to municipalities and businesses in the State; to that end, it operates the Central Landfill, which is allowed to accept only waste generated from Rhode Island and provides disposal services to over 95 percent of the State's residents. An additional statutory purpose of the Corporation, added in 1997, relates to the development of an industrial park in the Town of Johnston.

Although the day-to-day operations are managed by the Executive Director, the powers of the Corporation are currently vested in its Board of Commissioners, currently seven of whom are voting members (five vacant) and one, the Director of Administration's designee, had previously-existing voting rights removed via a statutory amendment in 2006. All Commissioners are legally bound by the State Code of Ethics.

Our findings indicate that certain irregularities and appearances of impropriety may exist regarding certain current and former Commissioners and employees and former employees of the Corporation. It is imperative to preliminarily note that such findings are not intended to be reflective of all Commissioners who have served over time, or all employees who have worked at or are currently employed by the Corporation. (Appendix A details the tenures of all Commissioners and Executive Directors from 1995 to present.)

The same premise applies to findings of certain irregularities and appearances of impropriety regarding the Corporation's Board-authorized charitable and civic contributions: irregularities and appearances of impropriety by current or former Commissioners or employees should not be viewed negatively with regard to the recipient organizations themselves. Additionally, as to contract awards that were made by the Corporation, although the Bureau has noted many relationships between some of the current and former Commissioners and employees of the Corporation, and beneficiaries of some of the contract awards, this report is not intended to be construed as an accusation in any way upon the recipients of contract awards by the Corporation.

Although many apparent relationships and possible conflicts of interest regarding current and former Commissioners and employees are discussed herein, the process of identifying and researching such issues continues as of the date of this Summary of Findings; therefore, our

understandings may continue to develop, and new potential relationships and conflicts of interest may be identified, over time.

In brief, as more fully described in the "Detailed Findings" section of this Summary of Findings, the Bureau found several instances in which various current and former Commissioners and employees appear to have compromised their fiduciary and ethical responsibilities to the Corporation and to the public. In apparently failing to fulfill these responsibilities to this end, these individuals may have strayed from their mission to ensure that solid waste of the State is managed in an effective and cost-efficient manner for the benefit of all Rhode Island residents now and in the future.

The following subsections summarize our findings.

Real Estate Issues – Industrial Park

- **Economic Feasibility Study for the Industrial Park Project was Not Performed.** The Corporation did not conduct an *economic* feasibility study in planning for an industrial park, even though an engineering feasibility study had stated, among its limitations, that its findings were subject to the "[m]arketability of the project."

- **Industrial Park Project Appears to Lack Economically Viability.** The Corporation recently recorded losses totaling $1.8 million arising from sales of 37 acres of industrial park property, an amount that appears understated. Forty-seven acres remain unsold and will likely result in further loss.

- **Corporation Strayed from Original Purpose of the Industrial Park Project – To *Return* Property to the Johnston Tax Roles.** We understand that the original intention of the proposed industrial park was to convert quasi-publicly-held property to private hands and thus grow the tax roles of the Town of Johnston. As this project proceeded, its location changed; the park would not be built primarily on existing Corporation-owned land, but rather on real estate acquired from private parties. This resulted in the temporary *removal* of taxable property from the roles, which was contrary to the asserted original purpose for the development.

- **Mayor Macera's Letter and Conflict-of-Interest Issues.** Then-Johnston Mayor William Macera publicly advocated the creation of the industrial park in an "Open Letter to the People of Johnston" dated March 25, 1999. This letter did not indicate that the private land would be temporarily removed from the tax roles, or that members of his own family would benefit through land sales.

Real Estate – Selected Transactional Issues

Ten recent real estate transactions, totaling $21.4 million, were reviewed. Findings include:

- **Purchase Prices for the Majority of Transactions Reviewed Exceeded Market-Comparable Statistics ("Market Comps").** Those transactions for prices in excess of market comps were for prices ranging from $476,000 to $829,000 per acre. Those within range of market comps were for properties encumbered by access, usability, and/or environmental issues.

- **Several Purchased Properties were Encumbered by Material Issues, Known but Apparently Ignored, at Time of Purchase or Not Known because of Failure to Perform Adequate Pre-transaction Due Diligence; Some of These Purchases Were Tainted by Relationship Issues.** For example, a large parcel was purchased ostensibly for gravel extraction for landfill operations; but the then-Executive Director had been informed, in writing, prior to the time of the purchase, that the land was unsuitable for that purpose. Other tracts were purchased without the Corporation having performed due diligence or commissioned environmental studies; and serious remediation issues came to light post-transaction.

- **Pervasive Potential Related-party and Conflict-of-interest Issues Existed regarding Real Estate Purchases.** The sellers in two of the reviewed transactions were related by marriage to the then-Executive Director. (The nature of the relationship is currently being vetted.) The sellers of two additional properties had engaged in past real estate transfers with an associate of the Chairman; and that same attorney provided legal representation to the Corporation in three other property transactions. Additionally, services related to many of the reviewed purchases were obtained (outside of the Corporation's normal procurement protocol) from professionals with apparent relationship/conflict issues. Notably, title insurance was repeatedly provided through a company associated with a then-Commissioner and owned by that Commissioner's son. The Corporation also (at least three times) engaged an appraiser who had done business with the Chairman's company (including expert witness testimony at trial). Finally, the Corporation was represented twice by a law firm whose attorneys included a relative-by-marriage to the then-Executive Director.

- **Records that Would Have Normally been Maintained in the Ordinary Course of Business were Missing from Corporation's Real Estate Transaction Records.** The Corporation was unable to provide a copy of the purchase and sale agreement executed for one of the considered transactions. Also, appraisals on several of the parcels could not be located, and appraisal fees were not noted in the settlement statements.

- **Cost/Benefit Analyses Apparently Were Not Performed Regarding Eminent Domain Versus Negotiation.** The Corporation was unable to provide any evidence that it performed cost/benefit analyses to compare the options of (i) acquiring the property via negotiation (which resulted in above-market-comp purchase prices) and (ii) using its power to condemn the property via eminent domain (which would have been based on appraised fair market value).

- **Corporation Failed to Follow Legally Prescribed, Corporation-Specific Protocol for Property Acquisition.** The law prescribes a public process and gubernatorial approval for property acquisitions, and it appears that the Corporation repeatedly failed to follow that protocol – and apparently circumvented it on at least one occasion.

- **Plans for Acquired Property's Use were Often Questionable, Unclear, or Absent.** The parcels acquired in several of the considered transactions were not utilized for their asserted intended purposes. Many acquired parcels remain dormant with no firm plans for future development or use, and one was immediately leased back to the seller, who subsequently subleased it to another party.

Real Estate Issues – Other

Out-of-scope issues that came to light during our real estate review include:

- **Corporation Overpaid for a Large Land Tract in 1995.** The purchase price of nearly $2.7 million, consistent with the "investment value" put forth by the appraisal, was over five times higher than the appraised "market value" as of that date. If the Corporation had exercised its right of eminent domain, the transfer price would have been based on the lower appraised market value.

- **Corporation Overpaid for a Large Land Tract in 2000.** The Corporation's purported reason for this acquisition was to obtain gravel material for use in landfill operations. The purchase price was nearly three times higher than the imputed value of the gravel contained in the acquired parcel.

- **Buildings were Constructed in Path of Eventual Landfill Expansion.** Several major construction projects were undertaken without apparent consideration for future expansion of the Central Landfill, many in the last decade. Five key buildings will have to be demolished and replaced elsewhere on Corporation property in the next several years, as the landfill is expected to reach its capacity in 2009.

Trust Fund Issues

Over $100 Million of Corporation Money Purchase Pension Plan ("MPPP") and Central Landfill Remediation Trust ("EPA Trust Fund") Monies were Managed by the Same Investment Advisor, Van Liew Trust Company ("Van Liew"). Issues relating to the management of these monies are as follows:

- Corporation violated its duty to follow its own advertised request-for-proposal ("RFP") criteria on three separate occasions, resulting in a lack of transparency.

- In one instance, Van Liew invoiced the Corporation, and the Corporation paid a portion of that bill, in advance of the renewal agreement's authorization.

- Investments in the EPA Trust Fund were converted from government-backed securities into equity instruments without having received necessary federal or State approvals.

- A Van Liew affiliate, in a 2001 SEC filing, disclosed that a then-Commissioner had an ownership interest in it. However, the then- Commissioner failed to disclose this ownership interest in his Ethics Filing for that year.

- Van Liew, during the bidding process, failed to comply with a clear, RFP-mandated duty to report any conflict of interest, including its relationship with the then-Commissioner.

- The EPA Trust Fund and MPPP assets represented approximately 32% of the total assets under management by Van Liew.

Civic and Charitable Contribution Issues

Findings regarding these disbursements include:

- **Corporation routinely makes charitable and civic contributions.** It is questionable whether it is appropriate for a quasi-public entity, such as the Corporation, to do so. Additionally, the Corporation has no applicable formal policy. Many recipient organizations are apparently unrelated to the corporate mission and/or affiliated with current and/or former Commissioners and/or employees.

- **The $2.1 million identified as contributions in the memoranda dated November 12, 2007 from the Corporation's Executive Director, Michael J. OConnell to the Governor is likely an understated amount.** Inconsistent recording of such disbursements renders quantification difficult, but limited completeness procedures conducted during our examination revealed payments not comprehended by the $2.1 million assertion.

- **Questionable contributions include payments:**
    - To organizations whose missions appear to be inconsistent with those of the Corporation.
        - In some of these cases, current and former Commissioners and employees appeared to have received benefits derived from such contributions including admission tickets to sporting events, gala events, and meals, among others.
    - For marketing, advertising, and promotional expenses (excluding grants to municipalities, which are accounted for separately). The reasons for such expenditures by a Corporation that is, effectively, a statutorily-created monopoly, are unclear.
    - For charity golf outings in which current and former Commissioners and employees participated.
    - To Alkahest, LLC ("Alkahest"). See "Alkahest Issues" subsection below.
- **Permissive Environment Existed.** Contributions were common knowledge amongst current and former Commissioners and employees and were routinely approved by the Board.
- **Lack of Transparency was Present.** The approved annual budgets were silent regarding contributions, and such payments were posted to unrelated general ledger accounts, including office supplies, host community surcharge, advertising, and grants.
- **Alkahest Issues.** Payments to Alkahest were for the financing of a mollusk shell waste management and technology start-up company, Shell Resources, LLC ("Shell"); the Corporation acquired a minority interest (and the right to name a Manager or Director) for majority financing. This investment was not properly capitalized, and it does not appear that the Corporation received any distribution of assets upon Shell's dissolution.

Remaining Issues to be Addressed

Due to time and resource limitations, the Bureau did not perform a full forensic audit of the Corporation, but rather attempted to address the key issues that have come to light pursuant to the November 12, 2007, memoranda from Michael OConnell, the Corporation's current Executive Director ("OConnell Memo"). Our procedures have revealed numerous areas of concern regarding these issues, which are central to this Summary of Findings, as well as a multitude of concerns that warrant further inquiry or, in some cases, full investigation. These include, but are not limited to, allegations and/or suspicions of:

- Other related party transactions,
- Payments for services not rendered or for services provided with questionable value,
- Employee theft,
- Potential state ethics violations,
- Violations of procurement processes, and
- Other activities that might be criminal in nature.

In order to address the issues noted above, and to bring closure to those issues included in this preliminary Summary of Findings, we recommend that this engagement continue as a full forensic investigation.

INTRODUCTION

Objectives, Scope, and Methodology

The Bureau performed a preliminary 45-day examination of the Corporation, pursuant to the written request of the Governor dated January 23, 2008, that it:

> *[T]ake all reasonable and necessary steps to audit the [Corporation] as follows:*
>
> - *There has been compliance with all laws and regulations applicable to the Corporation.*
> - *All expenditures are legal and proper, all accounting procedures and accounting records for significant financial transactions are proper, all financial transactions with those doing business with the corporation have been for fair market value and that there have been no defalcations, irregular practices or frauds.*
> - *There have been no unusual practices, including pricing favoritism for services rendered or any above market or below market transactions.*
> - *All persons having fiduciary duties to the Corporation have faithfully and impartially carried out their obligations.*
>
> *The Bureau of Audits shall transmit its findings and recommendations in writing [to the] Governor's Office within 45 days.*

Our understanding is that the examination was commissioned in response to the previously-defined OConnell Memo, which details concerns regarding the Corporation's real estate transactions, Central Landfill Remediation Trust, Money Purchase Pension Plan, and various civic and charitable contributions.

The Bureau's examination focused primarily on the major areas addressed in the OConnell Memo, but also included consideration of the appropriateness of other issues coming to our attention in light of the Corporation's missions, and the laws and regulations to which it is subject. To that end, we consulted with the Department of Administration's Division of Legal Services to obtain applicable legal guidance and interpretation in conjunction with our procedures.

Our examination included reviewing relevant policies and procedures and federal and State laws and regulations; interviewing staff; performing tests of Corporation records; and other procedures considered necessary under the circumstances. In addition, the Bureau received information via discussions with several individuals that initiated contact in an anonymous manner. This anonymous information was considered in our examination when it could be

validated through written documentation and/or discussions with current staff. Finally, given the timing requirements of this examination, and the specialized nature of some of its aspects, the services of an outside consulting firm were procured to assist the Bureau in certain matters.

Although there was no specified period of examination for this engagement, the Bureau reviewed documentation primarily from the years 2000 through 2006. However, many issues brought to the Bureau's attention related to years prior to 2000 and thus, we reviewed certain relevant materials for those years.

It should be noted that, as of the date of this Summary of Findings, there were numerous issues brought to the attention of the Bureau that, due to time and resource restrictions, could not be addressed in an adequate and thorough manner. We believe that appropriate investigation of such information could result in findings that may rise to the level of malfeasance or criminality.

BACKGROUND

The Rhode Island Resource Recovery Corporation is a quasi-public corporation, an instrumentality established in 1974 by an Act of the Rhode Island General Assembly. As stated in RIGL §23-19 *et seq.*, the Corporation was created to provide and coordinate solid waste management services to municipalities and businesses in the State of Rhode Island. It was intended that the Corporation would receive sufficient revenue through tipping fees (fees for the dumping of solid waste), sale of recyclable products, methane gas royalties, and fees for other services to be financially self-sufficient. The Corporation grants credit to its customers, primarily commercial entities and municipalities within the State.

An additional statutory purpose of the Corporation, which was added in 1997, relates to the development of an industrial park in the Town of Johnston. Originally, the law contemplated that the Corporation would *assist* in the development of such industrial park, which was to be located north of Shun Pike in that town (the proposed but never built "Northern Industrial Park") through the exercise of eminent domain and contractual arrangements. Subsequently, in 1998, that law was amended to change the location of the park to an area *south* of Shun Pike ("Southern Industrial Park," currently under development). In 2001, the law was amended yet again, this time to change this purpose from *assisting* with the development to *developing the park itself.*

The Corporation has the power to issue negotiable notes and bonds to achieve its corporate purpose, subject to the provisions of RIGL §35-18.

The Corporation's headquarters and main operations are located at the Central Landfill in Johnston. The Corporation has owned and operated the Central Landfill since December 1980 and currently manages approximately 4,000 tons of residential and commercial waste per day. The Central Landfill is allowed to accept only Rhode Island-generated waste and provides disposal services to over 95 percent of the State's residents.

The Materials Recycling Facility ("MRF") adjacent to the Central Landfill serves the entire State of Rhode Island and its over one million residents. Both residential and commercial recyclables are processed at the MRF. On a daily basis, approximately 175 trucks deliver roughly 330 tons of material to the MRF. The facility is capable of processing 25 tons of paper and eight tons of mixed recyclables per hour. Individual paper and mixed materials are separated and baled here for transport to recycling plants throughout North America.

The annual audited financial statements of the Corporation are included in the State's Comprehensive Annual Financial Report ("State CAFR"). While the State CAFR is audited by the Auditor General, the Corporation's financial statements are audited by an independent certified public accounting firm.

The day-to-day operations of the Corporation are managed by its Executive Director. The current Executive Director began his employment, and assumed his role, with the Corporation on January 2, 2007.

The powers of the Corporation are vested in a Board of Commissioners. In 2005, as a result of the passage of a Separation of Powers ("SOP") referendum on the 2004 ballot, the composition of the Board of Commissioners of the Corporation was changed. Prior to the passage of SOP, the Board members consisted of the State Director of Administration of the State or his or her designee; four members appointed by the Governor; one Johnston resident appointed by the Governor; two Representatives appointed by the Speaker of the House; and one Senator appointed by the Senate Majority Leader. The SOP referendum bars legislators and their appointees from boards and commissions that execute law and, as such, the legislators serving on boards vacated their positions.

Since SOP took effect, the Board consists of eight Commissioners: (i) seven public voting members who are appointed by the Governor with the advice and consent of the Senate, at least two of whom must be Johnston residents, and at least four of whom, it is implied, are required to achieve a quorum; and (ii) the eighth Commissioner member, the State Director of Administration or his or her designee (who a subordinate within the Department of Administration), in a non-voting *ex-officio* capacity.

Each Commissioner serves until he or she resigns or his or her successor is appointed.

All Commissioners are statutorily bound by the State Code of Ethics pursuant to RIGL §36-14 *et seq.* which states, in part, that:

> *[N]o person subject to this code of ethics shall have any interest, financial or otherwise, direct or indirect, or engage in any business, employment, transaction, or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties or employment in the public interest and of his or her responsibilities as prescribed in the laws of this state.*

During the conduct of this examination, two Commissioners, Michael Salvadore, Jr., and City of Warwick Mayor Scott Avedisian, submitted letters of resignation to the Governor. As of the date of this report, only two voting commissioners remain impaneled, Chairman A. Austin Ferland (the "Chairman") and Vice-Chairman Kenneth Aurecchia. We understand that the seat of the Director of Administration's designee was recently vacated and that the appointment of a new *ex-officio* Commissioner is imminent.

DETAILED FINDINGS

In the "Introduction" to this Summary of Findings, this preliminary 45-day examination was precipitated by the previously defined OConnell Memo. In those memoranda, the current Executive Director highlighted issues relating to several significant aspects of the Corporation, namely, (i) the investment of the MPPP, (ii) the investment of the EPA Funds, (iii) civic and charitable contributions, and (iv) real estate transactions. The current Executive Director was concerned that there were conflict-of-interest and other issues relating to the Commissioners regarding many of the transactions concerning the aforementioned matters. (This Summary of Findings presents the MPPP and EPA Trust Funds issues together as "Trust Fund" issues, as many relevant facts are intertwined.)

Real Estate Issues

General Background

The OConnell Memo detailed the current Executive Director's concerns relating to the economic viability of the industrial park project and on circumstances regarding individual real estate acquisitions. This "Real Estate Issues" section of the Summary of Findings separately details our consideration of (i) industrial park-related viability and purpose issues; (ii) real estate purchase concerns; and (iii) other matters that came to our attention during the real estate portion of our examination.

Real Estate – Industrial Park Issues

Background

The OConnell Memo projected that the Southern Industrial Park– for which many of the more recent Corporation property purchase expenditures have been made – could result in $8 million to $10 million in total losses to the Corporation.

To address this issue, we independently assessed whether the Industrial Park project: (i) was properly vetted prior to land acquisition and development; (ii) is currently burdened by economic viability issues; and (iii) will achieve its original stated goal of returning tax-exempt property to the town assessor's roles.

Real Estate – Industrial Park Issues – Finding 1
Failure to Commission an Economic Feasibility Study for the Industrial Park Project

The Corporation has been unable to provide any evidence, and current management does not believe, that an *economic* feasibility study was performed in planning for an industrial park. Commissioning such studies is standard operating procedure for commercial enterprises contemplating real estate development – generally in the early stages of the planning process.

An outside engineer's notation that the Corporation should perform such a study was apparently ignored.

Prudence and responsibility dictate that those in charge of any entity considering embarking on a commercial endeavor would start by considering simple questions such as: "Will this project make money or lose money?" or "Will this venture meet other objectives that are consistent with our mission?" To that end, the normal course of business for a real estate developer contemplating the creation of an industrial park is to, very early on, commission an economic viability/feasibility/impact study ("economic study") of the potential project. Accordingly, the Commissioners' fiduciary duties to the Corporation's stakeholders – the residents and institutions of the State of Rhode Island – would have required that such an economic study be performed.

During our procedures, we located no evidence that such a study was performed – or even considered – during the contemplated Northern Industrial Park planning process, or again after it was determined that the Northern Industrial Park plans would be abandoned in favor of the Southern Industrial Park. While the Corporation did commission and obtain a feasibility study, it primarily focused on physical attributes such as transportation, traffic, water pressure, etc. – whether such a park *could* be built, not whether it *should* be built. The considerations that were within the survey's scope did not include the proposed project's economic viability/feasibility or other salient issues, e.g. employment gains, tax impact, etc. – even though the Industrial Park was ostensibly conceived to grow the town's municipal revenues by converting land unutilized by the Corporation to the Johnston tax roles. In fact, among the caveats and qualifications in the study's executive summary is the following:

> *Although this report presents preliminary analyses and conceptual designs, it can be concluded that the proposed development is a feasible project pending ...* ***[the] [m]arketability of the project.*** *... [Emphasis added.]*

Obtaining an economic study would have helped the Corporation's Board of Commissioners to ascertain the maximum acceptable price that should have been paid for land – the highest purchase price that would still allow the industrial park to be developed at a gain, not a loss – and whether it could potentially achieve its original asserted benevolent goal of growing the local tax base.

Real Estate – Industrial Park Issues – Finding 2
Industrial Park Project Appears to Lack Economically Viability

There have been two recent sales of land within the Southern Industrial Park, and they have, collectively, resulted in a recorded loss of $1.8 million to the Corporation. We believe that this recorded loss is somewhat understated, as costs are allocated among acreage that is both developable and non-developable (consisting of wetlands and a contaminated area); if the Corporation had allocated costs only among the developable parcels, the loss would have been higher.

Collectively, the two tracts sold comprise 37 of the 84 Southern Industrial Park acres that are developable or potentially developable, and we understand that they are the Industrial Park's prime properties in terms of accessibility and topography. The average prices for these two sales approximated $133,000 per acre, which is consistent with recent market-comparable statistics.

Real Estate – Industrial Park Issues – Finding 3
Corporation's Straying from Original Purpose of the Industrial Park Project – To *Return* Property to the Johnston Tax Roles

At the outset, as noted above, the ostensible purpose of the Corporation's undertaking of an industrial park project was to return unused public land (i.e., unutilized real estate held by the Corporation) to private hands, thus increasing the tax roles of the Town of Johnston, its host municipality. Assuming that the industrial park had been built where originally contemplated (on the tract of land north of Shun Pike and east of the Central Landfill – the Northern Industrial Park), then perhaps the goal could have been achieved. The originally-contemplated Northern Industrial Park was to be built in an area largely consisted of Corporation-owned property. As it became apparent that the next expansion phase of the Central Landfill would be located on that very land, the whole notion of developing such a park should have been reconsidered.

Instead, it appears that the Corporation simply decided to "move" its plans, that is, to build it in an area generally south of Shun Pike; the execution of this plan required the acquisition of property southeast of the Corporation's then-existing land holdings. As the property to be acquired already resided in private hands, it was already included on the Johnston tax roles. When the Corporation purchased this real estate for redevelopment into the Southern Industrial Park, it actually *removed* it from the tax roles by converting its ownership from private to quasi-public, but as this situation is temporary (i.e., that the properties in the Southern Industrial Park will eventually "sell out," returning them to taxable private hands), this presumably temporary situation still runs contrary to the asserted original purpose for the development.

Real Estate – Industrial Park Issues – Finding 4
Mayor Macera's Letter Raises Conflict-of-Interest Issues

William Macera, the then-Mayor of Johnston, publicly advocated the creation of an industrial park in an "Open Letter to the People of Johnston" dated March 25, 1999), which stated, in part:

> *... [T]he Town of Johnston is still in financial difficulty .... One of the ways that we can plan for a stabilization of our financial woes is to broaden the tax base of the Town ....*
>
> *In March 1996, the Town entered into a Community Host Agreement with the [the Corporation] which, among other things, required cooperation between the Town*

and [the Corporation] to work in concert to establish and develop an industrial/business park in Johnston. ...

There is currently before the Town Council an ordinance which requests a zone change from residential to industrial in order that [the Corporation] be able to develop this land and bring more tax revenue into the Town. At the present time, [the Corporation] pays no taxes on this land because it is a tax-exempt agency [sic].

... I urge you to contact your council person and ask them [sic] to help all Johnstonians by enacting legislatively those matters which will insure the increase in tax revenue ....

William Macera's open letter did not indicate that the development of said industrial park would also include the purchase of private land by the Corporation – temporarily *removing* it from the tax roles, or that, as part of the property acquisition process, members of own family would be selling some of that land to the Corporation (Real Estate – Selected Transactional Issues – Finding 3a, Parcel 2). Additionally, it should be noted that we have found no evidence that the then-Executive Director disclosed this relationship to the Board.

Real Estate – Selected Transactional Issues

The OConnell Memo expressed concerns regarding:

- The execution of individual real estate transactions for prices in excess of fair value;
- The non-arm's-length, related-party nature of certain property purchases;
- An apparent lack of standard, sufficient evidentiary documentation that would normally be expected to reside in the files of the Corporation for such real estate transactions.

We have been advised that the Corporation purchased $24.0 million of real estate between January 2000 and June 2006 (the "recent property purchases"). The acquisitions were primarily made (i) in contemplation of the development of the Southern Industrial Park ($10.8 million); (ii) for future waste/recycling management development ($7.4 million); (iii) for landfill-covering gravel excavation ($3.2 million); (iv) for the Recovermat construction and demolition debris ("C&D") facility ($2.2 million); and (v) for land in the area previously considered for the Northern Industrial Park ($.32 million).

Although several of the acquired parcels included one or more buildings, each purchase was made with the intention that any structures thereon would be leveled and that the property would be utilized for the purpose for which it was bought. The purchase price of each parcel in the recent property purchases, allocated to land only (as the buildings were intended to be razed), ranged from approximately $30,000 to over $800,000 per acre.

The scope of our examination was limited to ten property transactions totaling $21.4 million (the "considered transactions"); this constituted a coverage ratio of approximately 90% of the $24.0 million in real estate purchases occurring during the above-referenced period. For each, we:

- Assessed the purchase prices against comparable market statistics (previously defined as "market comps");
- Considered whether any access, usability, and/or issues requiring environmental remediation exist;
- Researched potential related-party issues present;
- Ascertained the apparent completeness of documentation in the files of the Corporation;
- Evaluated compliance with a legally mandated land-acquisition process, which includes hearings and notification to and authorization by the Governor; and
- Assessed the veracity of the purported purpose of the transaction.

Relevant details regarding each of these ten transactions are listed in a table on the following page.

We also became aware of issues regarding certain property transactions that resided outside of our ten-property scope but which appeared to warrant further inquiry; these are discussed at the end of this section of the Summary of Findings ("Real Estate – Other Issues" subsection).

Details of Ten Considered Transactions

Parcel or Purchase Number	Assessor's Plat/Lot Number(s)	Date	Price (Price per Acre)	Acres	Seller Name	Asserted Purpose (at Time of Transaction)
1	43/253	April 29, 2002	$2,050,000 ($30,191)	67.90	William Macera, Maureen Macera, John Tzitzouris, and Lynn Tzitzouris (William Macera and Lynn Tzitzouris are siblings; Maureen Macera and John Tzitzouris are their respective spouses.)	Gravel extraction for use in landfill operations
2	29/32, 31/10, and 44/159	November 10, 2000	$6,000,000 ($163,488)	36.70	Macera/Tower Family Limited Partnership through 1031 Exchange Services Inc. and Anthony Macera Inc. (Anthony Macera is deceased; settlement statement was signed by Gerald Macera, principal of Macera/Tower Family Limited Partnership and son of Gerald Macera, and Jennie Macera, widow of Gerald Macera.)	Southern Industrial Park
3	31/06	July 6, 2005	$4,000,000 ($612,557 or $778,210)	6.53 or 5.14[1]	Silvestri Leasing Company (See also transaction 5 below.)	Future landfill expansion
4	31/43	September 3, 2003	$2,015,000 ($199,505)	10.14	Danya Izzo	Southern Industrial Park
5	31/07 and 31/54	March 10, 2003	$1,085,000 ($642,012)	1.69	Silvestri Leasing Company (See also transaction 3 above.)	Southern Industrial Park
6	31/53		$400,000 ($784,314)	.51	Bac-Mac Realty Company (Mary Baccarie is general partner of Bac-Mac Realty Company.) (See also transaction 7 below.)	Southern Industrial Park
7	31/50 and 31/56		$1,300,000 ($127,205)	10.14	Harry Baccarie and Mary Baccarie (See also transaction 6 above.)	Southern Industrial Park
8	31/57	October 31, 2005	$410,000 ($803,922)	.51	Gerald Lembicz ("Lembicz" is incorrectly spelled "Lembiez" in Johnston tax assessor's database.)	Unclear
9	31/49, 31/55, and 31/58	July 20, 2004	$1,525,000 ($828,804)	1.84	Coastal KJB Builders Inc. (Kevin Wilbur, who executed settlement statement, is brother of William Wilbur; see transaction 10 below.)	Unclear
10	31/45, 31/46, and 31/47		$1,475,000 ($475,806)	3.10	Coastal Atlantic LLC (William Wilbur, who executed settlement statement, is brother of Kevin Wilbur; see transaction 9 above.)	Unclear

[1] *Parcel 3* – The Corporation purchased Parcel 3 for $40 million. As discussed later in the Summary of Findings, (Real Estate – Transactional Issues – Finding 2c), discrepancies exist regarding the actual area of the lot: While the purchase documentation indicates that there were 6.53 acres, a subsequent survey determined there to be only 5.12 acres. The per-acre purchase price based on these two irreconcilable assumptions approximates $613,000 and $781,000, respectively, and both are above market comps.

Real Estate – Selected Transactional Issues – Finding 1
Majority of Purchase Prices in Excess of Market Comps

The following are the results of our consideration of market comps with respect to the ten considered transactions, which must be viewed in light of the applicable related-party/conflict-of-interest, encumbrance, intended-use, and file-completeness findings to be discussed later:

- In six of the transactions, the prices paid by the Corporation were above the range supported by market comps; the purchase prices of those six ranged from $476,000 to $829,000 per acre.

- A seventh purchase, Parcel 2, was acquired at a price consistent with market comps, not considering remediation costs. However, such expenditures will cause the per-acre total costs of that tract (including purchase and remediation) to exceed market-comp price ranges. This is further discussed in Finding 1.1 below.

- The remaining three purchases, which took place for prices consistent with comparable market statistics, approximately ranged from $30,000 to $200,000 per acre. However, as noted at Finding 1.1 below, serious concerns exist regarding each of these three.

In assessing purchase prices against market comps, we initially considered two different value premises: (i) market value, under which a subject parcel is considered as a stand-alone property, and (ii) assemblage, whereby an individual parcel's value must be measured in conjunction with all of the other properties included within the entire phase of the project. Because the Corporation had the authority to obtain property through the use of eminent domain, under which assemblage is not normally considered, we concluded that, of these two premises, only market value applies.

This work did not constitute comprehensive valuation procedures but simply comparisons of each considered transaction's purchase price to the price of transactions for similar properties in a relevant geography and time range.

Real Estate – Selected Transactional Issues – Finding 1.1
Issues Related to Properties with Purchase Prices Consistent with Market Comps

Although, as noted in Finding 1 above, some of the considered transactions occurred at prices consistent with market comps, it is important to note that there were specific concerns with respect to each regarding the intended use of the property; access, usability, and/or environmental issues; and/or the relationship of the appraised and actual prices. These are discussed below.

- *Parcel 1* – The Corporation purchased Parcel 1 for $2.1 million ($30,000 per acre), a price considered to be consistent with market comps. However, as noted later in the

Summary of Findings, there are concerns regarding the property's unsuitability for its ostensible intended use (gravel extraction for landfill operations), including the presence of wetlands (covering, with buffer, 34% of the parcel's area). This must be viewed in light of then-Executive Director's apparent knowledge of these issues prior to the transaction, as discussed in Finding 2a).

- *Parcel 2* – The Corporation purchased Parcel 2 for $6.0 million (approximately $163,000 per acre), a price considered to be consistent with market comps, assuming that the land is usable and does not require remediation issues. However, as noted later in the report, serious environmental issues *do* exist regarding the largest plot of the parcel; and these will require substantial remediation costs and/or loss of land previously thought to be usable. Such conditions will render the total cost (including acquisition and remediation and/or loss of land) above the market-comparable statistical range (Finding 2b).

- *Parcel 4* – The Corporation purchased Parcel 4 for $2.0 million (approximately $200,000 per acre), an amount consistent with market comps. Significant issues exist regarding both the environmental condition of the property and the accuracy of the appraisal commissioned by the Corporation.

    - As is noted elsewhere in this Summary of Findings environmental considerations that would have negatively impacted the estimate were discovered subsequent to the appraisal and purchase (Finding 2d).

    - The purchase price, while consistent with market comps, exceeded the $1.5-million appraisal by more than 33% – even though less than eighteen months elapsed between the appraisal and sales dates. It should be noted that:

        - The Corporation's initial offer, $1.6 million, also included employment of the seller's husband, but that the final settlement did not; either way, the initial offer was for a value higher than the appraisal amount.

        - In correspondence with the seller's attorney, the then-Executive Director noted that the offer price exceeded the appraisal and expressed an opinion that the appraisal itself was very generous.[2]

[2] *Parcel 4* – In an undated, handwritten note, which appears to be directed to the seller's attorney, the then-Executive Director affirms that the Corporation's $2.0 million offer exceeded the appraisal; states that the appraisal was generous; and also asserts that the offer did not contemplate a discount for wetlands included in the property.

> *... [It is] important to point out I DID NOT discount for wetlands ... i.e., he should have received less money. ... Your client got paid more per [square foot], we didn't back out wetlands and our deal exceeds appraisal. What else does he need to know? Tell him to sign the check.*

The then-Executive Director also refers to the appraisal amount as "a generous valuation in our estimation" in a separate letter to the seller's attorney.

- *Parcel 7* – The Corporation purchased Parcel 7 for $1.3 million (approximately $127,000 per acre), a price considered to be consistent with market comps. However, as noted later in this Summary of Findings, and Finding 2e, portions of the property contain buried C&D that was discovered subsequent to purchase. The as-yet unquantified remediation budget could potentially render the total cost (including acquisition and remediation and/or loss of land) above the market-comparable statistical range.

Real Estate – Selected Transactional Issues – Finding 2
Several Purchased Properties Encumbered by Material Issues, Known but Apparently Ignored, at Time of Purchase or Not Known because of Failure to Perform Adequate Pre-transaction Due Diligence; Some of These Purchases Tainted by Relationship Issues

Finding 2a. **Parcel 1, Land Purchased for Gravel Excavation, Unusable for that Purpose; Then-Executive Director Informed before Transaction was Consummated**

As previously noted, Parcel 1 was ostensibly purchased for the purpose of excavating gravel to be used in landfill operations. However, accessibility issues (because of the plot's configuration), the presence of wetlands, and a high silt content in the extractable portion of the land render the property unusable for this supposed intended purpose; the property today remains unused, with no future development plans. The then-Executive Director was the solely-named recipient of an engineering report discussing these issues significantly prior to the execution of the transaction: "The high silt content of the soil encountered at the site renders the soil unsuitable for gravel borrow material. … Additionally, only 66% of the site lies outside wetland buffer areas."

Finding 2b. **Portion of Parcel 2 Environmental Remediation Issues; Engineer-recommended Assessment Not Performed Prior to Acquisition**

As previously noted, environmental issues exist relating to a portion of Parcel 2. The major component lot of this transaction contains a former landfill requiring environmental remediation (either excavation/disposal, which is expensive; or consolidation/capping, which, while more economical, will result in the permanent loss of a portion of the land).[3]

[3] The detail of these findings are as follows: Assessor's Plat/Lot 31-10, comprising 33.5 acres of Parcel 2, contains the former A. Macera Landfill. A *Limited Phase II Environmental Site Assessment* was performed (on the landfill portion of 31/10 only) by a third party, and the results were provided to the then-the Corporation Executive Director on August 19, 1999, more than one year prior to the consummation of the purchase. The consultant performed a preliminary evaluation of the feasibility of removing waste materials from the site or encapsulating them on-site. Based on the consultant's understanding of the Corporation's intention to reclaim as much land as possible for future industrial or commercial development, the report put forth two options:

(a) **Excavation and disposal option.** Excavate waste materials and dispose at the Central Landfill. The report, at a total estimated cost of approximately $6.8 million; or

(b) **Consolidation and capping option.** Consolidate the waste on-site and cap the landfill. Construction costs for this alternative were estimated in 1999 to be less than $600,000 million. (However, the current Executive Director has informed us the total cost will be closer to $1.0 million, as nine years have elapsed since this estimate, and because (he believes that) the consultant's report does not reflect labor expenses.

This fact was known when the land was purchased, but the purchase price, as discussed above, does not appear to reflect encumbrance. Additionally, a recommended study of land adjacent to the former landfill was not performed prior to purchase, and the extent of contamination at this adjoining site, which is also part of Parcel 2, is currently unknown.

Finding 2c. Questions Regarding Area and Environmental Condition of Parcel 3

The amount of land included in the Parcel 3 purchase is uncertain, as there is a discrepancy between closing documents and the results of a survey conducted shortly before the time of the transaction; it does not appear that the results of this survey (that the land was 5.14 acres in area, not 6.53)[4] reduced the purchase price. Additionally, the site currently contains a tire re-tread facility, and the extent of resulting environmental issues, if any, is unknown; we are unaware that any pre-acquisition assessment took place.

Finding 2d. Lack of Due Diligence regarding Parcel 4 Acquisition; Contamination Discovered Post-transaction

As previously referenced, contamination issues exist with respect to Parcel 4. An appraisal report commissioned on the property was based on the assumption, among others, that the property was free of conditions regarding the property that would impact its value and also stated that the appraiser bore no responsibility for detecting such conditions. Accordingly,

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(The report also stated that this option would require further studies and chemical testing to evaluate the waste constituents, and further evaluation of groundwater quality and migration.)

The report also noted that the upper portion of the property (the non-landfill portion of 31/10) was not included in the costs estimates previously provided, nor did it consider any environmental liabilities associated with various commercial and industrial activities located along Shun Pike.

The Corporation is currently planning to implement the consolidation and capping option, including the application of a low permeable soil cap. The Corporation has hired a Consultant to perform the required environmental studies in order to finalize a work plan for submission to the relevant regulatory agencies for approval. Implementing the capping option renders approximately 7 acres of the purchased land as unusable (greater than the 5 or 6 suggested by the *Limited Phase II* report), and the land's future use will be restricted to open space. The Corporation estimates a budget of $600,000 for materials (consistent with the *Limited Phase II* report), plus labor, for a total of approximately $1.0 million. These estimated expenditures exclude long term remediation and monitoring costs, which have yet to be estimated.

The consultant also recommended that a Phase II environmental site assessment be performed on the upper portion of the parcel prior to purchase; however, we have been informed that this assessment *was not* procured by the Corporation prior to purchase and that, as of the date of this Summary of Findings, the Corporation has still not yet determined the extent or whether any contamination exists in this area.

[4] Regarding the land area discrepancy, the closing documents indicate that the parcel includes 6.53 acres of land – an amount consistent with the Johnston tax assessor's records. However, a Class IV survey was performed prior to the transaction, and that work indicated that the parcel included 5.14 acres (over 21% less than represented at the time of the transaction).

Irrespective of the issues regarding the price paid, it should be noted that this property contains a tire retread facility and that the Corporation has not commissioned any analyses to determine if any remediation efforts are warranted required at this site.

such study would have been management's responsibility; management apparently failed to uphold this duty, as is the Corporation is unable to represent that a study took place. Shortly after purchase, the land was subjected to a Rhode Island Department of Environmental Management ("DEM") cleanup order, and we understand that the contaminants were removed at the expense of Corporation.

Finding 2e. **Lack of Due Diligence regarding Parcel 7 Acquisition; Buried C&D Discovered Post-transaction**

As previously noted, portions of the Parcel 7 property contain buried C&D that was discovered subsequent to purchase, as the Corporation did not perform an environmental study prior to the transaction. The Corporation has not yet engaged a consultant to determine the extent of the required remediation and has not yet budgeted amounts associated with remediation.

Real Estate – Selected Transactional Issues – Finding 3
Pervasive Potential Related-party and Conflict-of-interest Issues Present in Real Estate Purchases

Finding 3a. **Seller Issues**

- *Parcel 1* – Our review revealed that the sellers of this parcel are related through marriage to the then-Executive Director. Although the relationship does not appear to fall under the purview of the State Ethics Code, its nature needs to be further explored due to the facts noted in Finding 2a; specifically, the then-Executive Director was the sole addressee of an engineering report that the land was unsuitable for its intended use.

- *Parcel 2* – Our review revealed that the principals of the sellers of this parcel are related to then-Mayor William Macera. Additionally, they are related through marriage to the then-Executive Director; and, although the relationship does not appear to fall under the purview of the State Ethics Code, its nature needs to be further explored due to the facts noted in Finding 2b; notably, the then-Executive Director was the sole addressee of an engineering report that the land was contaminated and would require remediation at a significant cost.

- *Parcels 5 and 6* – These parcels have been owned (in part or in full) in the past by a limited liability company ("LLC") that appears to share a registered agent with various business interests of the Chairman. That registered agent also serves as the corporate secretary to the Chairman's main business. This same individual is discussed below at Finding 3b, Parcels 5, 6, and 7.

Finding 3b. Corporation Attorney Issue

- *Parcels 1 and 3* – The law firm representing the Corporation on these transactions includes, among its attorneys, (i) a cousin of the former Executive Director's husband

(who appears to have himself represented the Corporation in the Parcel 1 transaction); and (ii) the former Executive Director's current personal attorney. Minutes are silent as to whether the former Executive Director disclosed this relationship to the Board, and the Corporation's purchase files do not indicate that these services were procured under its standard protocol, which includes the issuance of an RFP.

- *Parcels 5, 6, and 7.* The Corporation engaged an attorney who also serves as the corporate secretary to the Chairman's main business and as the registered agent for a number of entities in which the Chairman's main business is a partner. See also Finding 3a, Parcels 5 and 6.

Finding 3c. **Corporation Appraiser Issue**

- *Parcels 1, 3, and 4* – The Corporation's appraiser of these parcels listed the Chairman's principal business as a client. The appraiser's named principal has, in the past, testified at trial as an expert witness on behalf of the Chairman's main business. Minutes are silent as to whether the Chairman disclosed this apparent ongoing business relationship to the Board, and the Corporation's purchase files do not indicate that these services were procured via the RFP process.

Finding 3d. **Corporation Title Insurance Company Issue**

- *Parcels 1 through 8* – The company through which the Corporation procured title insurance in these transactions, Pilgrim Title Insurance Company ("Pilgrim Title"), includes former Commissioner John St. Sauveur as a current or former vice-president and his son as a senior title attorney and principal. Minutes are silent as to whether Commissioner St. Sauveur disclosed this relationship to the Board, and the Corporation's purchase files do not indicate that these services were procured via the RFP process. Had the RFP process been employed, Pilgrim Title would have been required to disclose this relationship in its response/proposal.

Real Estate – Selected Transactional Issues – Finding 4
Records that Would Have Normally been Maintained in the Ordinary Course of Business Missing from Corporation's Real Estate Transaction Records

- *Parcel 2* – The Corporation was unable to provide a copy of the purchase and sale agreement executed for the purchase of this parcel, although the settlement statement is included in the files.

- *Parcels 2, 5, 6, 7, 8, 9, and 10* – Additionally, the Corporation was unable to provide any evidence that real estate appraisals were performed on its behalf prior to the transactions in which these parcels were acquired. (There were no appraisals in the Corporation's real estate transaction files, and no appraisal fees were noted on the settlement statements.)

Real Estate – Selected Transactional Issues – Finding 5
Cost/Benefit Analyses Apparently Not Performed Regarding Eminent Domain Versus Negotiation

The Corporation was unable to provide any evidence that it performed cost/benefit analyses to compare the options of (i) acquiring the property via negotiation (which resulted in above-market-comp purchase prices) and (ii) using its power to condemn the property via eminent domain powers (which would have been based on appraised fair market value).

As noted at Finding 4, the Corporation was unable to provide evidence that appraisals were performed on its behalf prior to several of those acquisitions; such appraisals are critical to the performance of cost/benefit analyses.

The Corporation only utilized its optional eminent domain powers on one of the ten transactions considered (for Parcel 4), and even that transaction settled out of court for an above-appraisal amount. Also as noted at Finding 7, several of the properties acquired via a negotiated purchase did not appear to be imminently required for corporate purposes, and as noted at Finding 1, most of those were acquired for prices above market comps.

Real Estate – Selected Transactional Issues– Finding 6
Failure to Follow Legally Prescribed Protocol for Property Acquisition

In carrying out the ten considered transactions, it appears that the Corporation did not follow procedures required by State law specifically applicable to it – and it alone. Additionally, in one case, the Chairman was apparently aware of the requirements and that he and the other involved Commissioners, along with the then-Executive Director, disregarded those legal obligations.

The Corporation is obligated to follow certain procedures when acquiring property, either via purchase or eminent domain, as mandated by RIGL §23-19-10.2 – *Solid Waste Disposal Sites – Eminent Domain.* The procedures required include:

- Submission of a report to the Solid Waste Siting Board ("Siting Board");
- A public hearing conducted by the Siting Board;
- An advisory opinion to the Governor; and
- Gubernatorial authorization.

The Corporation could not provide documentation to evidence whether the legal requirements, as detailed above, were adhered to in conjunction with any of the recent property purchases.

In documents related to one of the ten considered transactions, the purchase of Parcel 8, the Chairman's knowledge of the legal requirements, and his apparent intent to circumvent them,

are apparent. The minutes of the October 11, 2005, Executive Session of the Board of Commissioners indicate that, at that meeting, the then-Executive Director:

> *[S]tated that she was seeking to enter into a Purchase and Sales Agreement for [Parcel 8]. [Commissioner] Jerry Williams stated that before bringing this matter to the full Board, Jeff Grybowski [the Governor's then-Chief of Staff] would like this matter discussed with the Governor. The Governor's office requested a delay for further briefing prior to public disclosure in the Comprehensive Plan regarding sitting of future landfill expansion. Chairman Ferland indicated that the plan to acquire properties across the street [which includes Parcel 8] has been in place for several years and since we have almost completed execution he intended to proceed.*

The Corporation purchased Parcel 8 less than three weeks later, on October 31, 2005, for $410,000, or which equates to approximately $804,000 per acre for this .51-acre lot. The Corporation has been unable to provide evidence of the any of the legally specified elements, namely, a report to the Siting Board; a Siting Board hearing; an advisory opinion to the Governor; or the Governor's authorization.

Real Estate Selected Transactional Issues – Finding 7
Apparent Absence of Plans for Acquired Property

Where applicable, the apparent lack of plans for these properties must be viewed in the context of the market comparable pricing and related-party/conflict-of-interest issues detailed previously:

- *Parcel 1* – As stated earlier in this Summary of Findings, this property was ostensibly acquired for gravel extraction for use in landfill operations. However, accessibility, wetland, and silt-content issues render the gravel difficult to excavate and unsuitable to use, which was known to the then-Executive Director at the time of the transaction. As of the date of this Summary of Findings, the tract sits vacant and unused, and the Corporation has no plans for the property other than to serve as a buffer between the Central Landfill and areas to the west.

- *Parcel 3* – While the April 29, 2005, business meeting minutes address this property as part of a contemplated future landfill expansion, we have been advised by the Corporation's engineering group that such expansion could have proceeded without the purchase of this property and that the parcel is not included in any approved expansion plans. It should be noted that, immediately subsequent to the purchase, the Corporation leased the property back to the previous owner, and the previous owner/tenant has subleased the property. Nearly three years later, this arrangement continues to exist.

- *Parcel 8* – The Corporation could not provide a documented reason for this purchase, and the land is not being used. The Corporation engineering group stated that this

location could *possibly* be utilized (in conjunction with Parcels 9 and 10) for the relocation of the Ridgewood methane power plant as part of a planned "Phase VI" Central Landfill expansion. However, it should be noted that this potential use of the property was not contemplated at the time of purchase. The Corporation does not currently have any firm plans to develop, or intention to sell, this property.

- *Parcels 9 and 10* – The Corporation could not provide a documented reason for these purchases. Currently, an excavation company is renting Assessor's Plat/Lot 31/49 for $1,000 monthly; another company is renting three of the five garage bays on 31/58 for $1,000, and a bus company is renting 31/45 for $3,500. The Corporation engineering group stated that Parcel 9 and 10 tract could *possibly* be utilized (in conjunction with Parcel 8) for the relocation of the Ridgewood methane power plant as part of the planned Phase VI Central Landfill expansion. However, it should be noted that this potential use of the property was not contemplated at the time of purchase. The Corporation does not currently have any firm plans to develop, or intention to sell, these properties.

Real Estate – Other Issues

The real estate portion of our examination focused on certain matters with respect to the development of the industrial park, and various issues related to ten property purchases (occurring between January 2000 and July 2006. However, in the course of considering these two general areas, other issues worth noting came to our attention.

Real Estate – Other Issues – Finding 1
Corporation's Overpayment for Purchase of Lot 66

The 50.50-acre parcel, formally Assessor's Plat/Lot 43/66, is commonly referred to as "Lot 66." It was purchased in November or December of 1995 from Michael A. Macera, Stephen M. Macera, Robert A. Cece, and John C. Cece, for nearly $2.7 million, an amount consistent with the "investment value" set forth by a September 26, 1995 appraisal. However, that same appraisal also indicated that the "market value" was only $500,000 as of that date. It does not appear that the Corporation utilized its powers of eminent domain to acquire the property; if it had, the condemnation price would have been based on the appraised market value – not the more-than-five-times-higher investment value.

Real Estate – Other Issues – Finding 2
Overpayment for Tillinghast Property in Light of Purported Reason for Acquisition

The 18.70-acre parcel, formally Assessor's Plat/Lot 31/2, commonly referred to as the "Tillinghast Property" was purchased in early 2000 from Ruth Tillinghast for over $1.1 million. We understand that the purported primary purpose for this transaction was to obtain a source for earth material for use in landfill operations. This is supported by the fact that the Corporation commissioned a "walkover study" to ascertain subsurface conditions and estimate the amount of extractable material prior to the execution of the transaction; this

study estimated that approximately 44,000 cubic yards of usable material could be mined from that location: 9,000 cubic yards of topsoil and 35,000 cubic yards of fine sand and silt.

We have been advised that, around the year 2000, topsoil and common borrow were, respectively, priced at about $15.00 and $7.75 per cubic yard on the open market. Based on this assumption, the imputed value of the extractable material from the Tillinghast property, for which the Corporation paid over $1.1 million (supposedly in order to obtain extractable material) is approximately $400,000.

Real Estate – Other Issues – Finding 3
Buildings Constructed in Path of Eventual Phase VI Expansion.

The following major buildings and facilities at the Central Landfill stand in the "footprint" of its eventual Phase VI expansion, including the administration building (Corporation headquarters), tipping station, Recovermat facility, Eco-Depot, and Ridgewood Energy methane-extraction power plant ("buildings"). It is anticipated that the currently-employed portion of the landfill, Phase V, will reach capacity in the autumn of 2009, necessitating the gradual expansion eastward into Phase VI; as Phase VI progresses, these buildings will each be razed, and replacements will need to be constructed elsewhere in the vicinity.

It is anticipated that "relocation" of these buildings, which cost over $42.0 million to build, will take place in phases beginning in 2009 and ending in 2015. It is important to note that over $18.0 million of this to-be-leveled construction took place since 2000; the Corporation's engineering staff has informed us that the need for, and eventual location of, the eventual Phase VI either was, or should have been, anticipated long before that date.

Trust Fund Issues

Background

The OConnell Memo expressed concern that:

- All of the pension plan assets ($23 million) and remediation trust fund assets ($80 million) were with one money manager;
- The total of these two investments equated to 25% of investment advisor's total assets under management;
- The types of investments in the remedial trust fund were contrary to the investments directions set forth in the consent decree; and
- A former Corporation Commissioner, who took part in discussions regarding the initial and continued engagement of Investment Advisor, was a paid official/director/board member of said money manager.

The Corporation maintains a Money Purchase Pension Plan trust fund (previously defined as "MPPP") for the benefit of its current and former employees. Separately, in 1994, the

Corporation established the Central Landfill Remediation Trust (previously defined as "EPA Trust Fund") pursuant to a consent decree with the Environmental Protection Agency ("EPA"). (As previously stated, the MPPP and EPA Trust Fund are referred to collectively in this Summary of Findings as the "Trust Funds.") The Corporation appointed the Van Liew Trust Company ("Van Liew") as investment advisor to both trust funds – the EPA Trust Fund in 1994 and the MPPP in 2004.

Simultaneously, former Commissioner St. Sauveur served on the Corporation's Board and was affiliated with Van Liew and its affiliates ("Van Liew entities"). His tenure on the Board of Commissioners spanned from 1991 to 2007, and his affiliation with the Van Liew entities, which include Van Liew, lasted from 1992 to 2007.

Our examination, which included a review of relevant SEC filings, noted that Commissioner St. Sauveur has relationships with Van Liew and several Van Liew entities including VLC Trust ("VLC Trust")/Ocean State Tax Exempt Fund, Van Liew Capital, Inc., and Van Liew Securities, Inc. Further, in several of his State Ethics Commission Yearly Financial Statements ("Ethics Filing"), Commissioner St. Sauveur disclosed employment interests with VLC Trust and Ocean State Tax Exempt Fund.

Trust Fund Issues – Finding 1
Apparent Presumption of Selection and Renewal of Van Liew Services

***Finding 1a* - Violation of RFP Process** - The Corporation violated its duty to follow its own advertised RFP criteria on three separate occasions, resulting in a lack of transparency. Each of these mid-process departures appeared to be designed to skew the selection toward Van Liew and resulted in Van Liew prevailing over money-center banks and other major financial institutions. The largest of these three contracts – for investment management services for the $80 million EPA Trust Fund – lasted in excess of 12 years (considering renewals). Salient details regarding each of these RFPs and resulting contracts follow.

- RFP 924 (awarded 1996), the initial solicitation for EPA Trust Fund Trustee Services: Ten proposals were received and scored using the advertised criteria (experience, fee proposal, and quality of proposal) resulting in three potential vendors being placed on the "short list." The Board's selection sub-committee used only the fee proposal criterion to score the short list of proposals, a violation in and of itself, but also attributed a fee rate to Van Liew that was less than the rate put forth by the actual proposal. As a result, Van Liew's proposal was incorrectly scored favorably against its two remaining competitors, and Van Liew was awarded the contract. It should be noted that Van Liew's invoicing during the contract reflected its proposed fee rates, and not the erroneous rates used by the selection subcommittee during the short list vetting process.

- The fact pattern for the evaluation process of RFP 946 (awarded 1998), a subsequent solicitation for EPA Trust Fund Trustee Services, and also for Investment Management Services, was identical to that of RFP 924 discussed above, except that eight (rather than ten) proposals were initially scored and two (rather than three)

proposals were short listed. It should be noted that Van Liew's invoicing, during this contract as well, reflected its proposed fee rates, and not the erroneous rates used by the selection subcommittee during the short list vetting process.

- The fact pattern for the evaluation process of RFP 840 (awarded 2004), for Pension Manager services, was also somewhat similar to that of RFP 924 in that employed scoring criteria weights were changed mid-process. While the initial scoring of the proposals complied with the advertised evaluation process, the short list evaluation employed different weights for each of the three criteria. Had the advertised weights been consistently applied, Van Liew would not have achieved the highest score among the four finalists.

Board meeting minutes were not made available to the examination team for years prior to 2000. Therefore, we are not able to comment as to requisite Board approvals, recusal of Commissioner St. Sauveur regarding his conflict of interest, or potential ethics violations with respect to RFPs 924 and 946. Additionally, we were unable to determine the members of the scoring committees from the documents made available to us.

Trust Fund Issues – Finding 1b **– Payment in Advance of Approval -** Van Liew invoiced the Corporation for pension services for the first quarter of 2006 on January 25, 2006, prior to the renewal agreement's authorization by the Board. The Corporation paid one third of this invoice (the allocation for the month of January). The 2006 renewal agreement was executed on August 10, 2006 – eight months into the year and two months after the Board's resolution to renew.

Trust Fund Issues – Finding 2 **– Violation of EPA Consent Decree** – Investments in the EPA Trust Fund were converted from government-backed securities into equity instruments without having received approval from the EPA or DEM, violating specific terms of the consent decree that established the EPA Trust Fund.

Additionally, the Corporation's investment policies were amended without EPA or DEM approval, another consent decree violation. These changes, in 1999 and 2004, respectively, allowed EPA Trust Fund monies to be invested in equity securities and permitted the fund manager to trade with his own discretion and without Board approval. Documents provided during the examination are silent as to the existence of EPA or DEM approval of either modification.

Trust Fund Issues – Finding 3 **– Violation of State Ethics Filing** – VLC Trust disclosed, in a 2001 SEC filing, that Commissioner St. Sauveur had ownership valued between $10,000 and $50,000, but the Commissioner himself failed to disclose that interest in his own State Ethics Filing for that year.

Trust Fund Issues – Finding 4 **– Vendor Failure to Disclose Conflict of Interest** – The Corporation's standard RFP template specifies that the bidder has a duty to report certain conflict of interest issues that may exist. This language, which was included in RFPs for Investment Management and Trustee Services and Pension Manager, states, in part::

A Respondent submitting a Proposal hereby certifies that: No officer, agent, or employee of the Corporation has a pecuniary interest in the Proposal or has participated in contract negotiations on behalf of the Respondent; the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Respondent for the same call for Proposals; and, the Respondent is competing solely in his/her/its own behalf without connection with, or obligation to, any undisclosed person or firm.

Compliance with this requirement would have disclosed the relationship between Van Liew and Commissioner St. Sauveur.

The records made available to the examination team are silent as to whether Van Liew made such a disclosure.

We are unable to ascertain whether Commissioner St. Sauveur derived any financial benefit, either direct or indirect, as a result of Van Liew's retention by the Corporation. Accordingly, further investigation is warranted.

***Trust Fund Issues – Finding 5* – Percent of Assets under Management by Van Liew –** The Corporation's total trust investments exceeded $100 million at December 31, 2007. Van Liew reported approximately $325 million of assets under management in its biannual filing with the State Department of Business Regulation as of December 31, 2007. The Corporation's Trust Fund monies represented approximately 32% of Van Liew total assets under management as of that date.

Note Regarding Current Status of Trust Funds – EPA Trust Fund assets were transferred from Van Liew during January and February 2008; the assets were divided between two banks and are currently being invested in government-backed securities as required by the consent decree. The MPPP assets have been diversified among four different investment managers; Van Liew's MPPP-related services were terminated during December 2007.

Civic and Charitable Contribution Issues

Background

The OConnell Memo expressed concern regarding $2.1 million of payments described as civic and charitable contributions that occurred over a five-year period beginning July 2002. It also specifically addressed concern about relationships existing between past and present Commissioners and the recipient charities; golf outings; sponsorship of a company that purchased surfboards; and an investment in a venture capital firm.

Our findings indicate that a corporate culture existed whereby contributions were made to organizations associated with current and former Commissioners, and members of senior management, which were openly discussed at Board meetings.

Civic and Charitable Contribution Issues – Finding 1

Routine Charitable and Civic Contributions – It is questionable whether it is appropriate for a quasi-public entity, such as the Corporation to make charitable or civic donations, and we are unaware of the existence of any approved formal policy addressing such contributions. However, the Corporation routinely disbursed monies to certain organizations. In many instances, current and former Commissioners and/or members of Corporation management were affiliated with the recipient organizations (i.e., common board membership). It should also be noted that many of the Corporation's contributions were to organizations apparently unrelated to the Corporation's mission (e.g. youth athletic teams, scouting organizations, and religious charities).

Civic and Charitable Contribution Issues – Finding 2

Completeness – The $2.1 million of payments mentioned in the OConnell Memo do not appear to constitute a complete representation of contribution disbursements made during the five fiscal years beginning July 2002. These payments were identified by the financial management staff by performing a search in the accounting system using terms such as "grant," "donation," and "sponsorship." Our limited testing revealed that the $2.1 million is a conservative representation of contributions made during this time period. The actual amount of contributions may in fact exceed $2.1 million.

Civic and Charitable Contribution Issues – Finding 3

Appropriateness – Of the $2.1 million of contributions, 53% are questionable for the reasons outlined below:

- Twenty percent was to organizations whose missions appear to be inconsistent with that of the Corporation. In some cases, current and former Commissioners and employees appeared to have received benefits derived from such contributions including admission tickets to sporting events, gala events, and meals, among others.

- Twenty-five percent was for marketing, advertising, and promotional expenses, which does not include grants to municipalities. As the Corporation has a monopoly over the disposal and recycling business in the State, and its operations are statutorily limited to waste originating in the State, the need for these expenditures is unclear.

- Two percent was for charity golf outings in which current and former Commissioners and employees participated.

- One percent was for free recycling bins provided to a publicly-traded company as well as a waste-disposal company.

- Five percent was to Alkahest for an equity interest in Shell. (See Finding 6 section below for more detail.)

While the remaining 47% of the $2.1 million was paid to organizations promoting recycling or recycling education the discretion exercised in making some of these expenditures appears to be questionable.

Civic and Charitable Contribution Issues – Finding 4

Permissive Environment - The existence of the contributions, as detailed above, appear to have been common knowledge amongst the Board and many Corporation employees. Contributions were usually presented and routinely approved by the Board of Commissioners at its business meetings. The meeting minutes disclosed the open discussion of such contributions, including those to organizations apparently unrelated to the corporate mission.

Civic and Charitable Contribution Issues – Finding 5

Lack of Transparency - The Corporation prepares an annual budget that is approved by the Board. This approved budget does not include a line item for contributions. As a result, such payments are recorded to general ledger expense accounts, including office supplies, host community surcharge, advertising, and grants. This misclassification results in a lack of transparency.

Civic and Charitable Contribution Issues – Finding 6

Acquisition of Equity Interest in Shell via Payments to Alkahest – Included in the contributions of $2.1 million noted above, at Finding 4, was $100,000 paid to Alkahest, which was used to finance the formation of Shell, a business dealing with mollusk shell waste management and technologies. These payments were not contributions at all, but rather represented the acquisition of an ownership interest.

- The Corporation received a minority interest (12.5%) for majority financing (54%), which was not properly capitalized and recorded as an asset on the Corporation's balance sheet.

- Our examination did not reveal evidence that the Board of Commissioners deliberated the true investment (not grant) nature of these expenditures. The Corporation made four installments between April 2002 and January 2003.

- The Corporation signed a contract which allowed the Corporation to appoint one of its Commissioners, as a manager or director to the recipient organization; it is unclear as to whether this was a compensated position.

- A review of the Secretary of State's Corporation Database disclosed that Alkahest was incorporated in Rhode Island in 2000 and its charter was revoked in 2004. It is

unclear as to what assets existed at the date of revocation and what, if any, attempts the Corporation made to recoup its investment, or a portion thereof, when Alkahest was dissolved.

We were not able to determine if other equity investments were made by the Corporation.

Remaining Issues to be Addressed

It should be noted that, as of the date of this Summary of Findings, there were numerous issues brought to the attention of the Bureau that, due to time and resource restrictions, could not be addressed in an adequate or thorough manner. We believe that appropriate investigation of such information could result in findings that may rise to the level of malfeasance or criminality.

Due to time and resource limitations, the Bureau did not perform a full forensic audit of the Corporation, but rather attempted to address the key issues that have come to light pursuant to the OConnell Memo. Our procedures have revealed numerous areas of concern regarding the issues central to this summary, as well as a multitude of new concerns that warrant further inquiry or, in some cases, full investigation. These include, but are not limited to, allegations and/or suspicions of:

- Other related party transactions,
- Payments for services not rendered or for services provided with questionable value,
- Employee theft,
- Potential state ethics violations,
- Violations of procurement processes, and
- Other activities that might be criminal in nature.

In order to address the issues noted above, and to bring closure to those issues included in this preliminary Summary of Findings, we recommend that this engagement continue as a full forensic investigation.

APPENDIX A

APPENDIX A

Tenures of Commissioners and Executive Directors

Commissioners	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
✓ - Board Member, C - Chairman, VC - Vice-Chairman, T - Treasurer													
Dominic Ragosta	C	C	✓	✓	✓								
Ausitn Ferland	✓	VC	C	C	C	C	C	C	C	C	C	C	C
John St. Sauveur *	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Leonard Clingham	✓	✓	✓	✓									
Mayor Thomas Lazieh	T												
Senator Roger Badeau	✓	✓	VC	VC	VC	VC	VC	VC	VC	VC			
Rep. Robert Lowe	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			
Rep. Wayne Salisbury	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Joshua Teverow	✓												
Jerry Ligon	✓	T	T	T	T	T							
Kenneth Bianchi		✓	✓										
Mayor Louis Perrotta			✓	✓	✓	✓							
Dante Boffi				✓	✓	✓	T	T					
Rep. Joan Quick					✓	✓	✓	✓					
Michael Salvadore, Jr. **						✓	✓	✓	T	T	T	T	T
Kenneth Aurecchia						✓	✓	✓	✓	✓	✓	VC	VC
Jerome Williams									✓	✓	✓	✓	
Rep. John Savage										✓			
Mayor Scott Avedisian **													✓
George Welly ***													✓
Executive Director													
Thomas E. Wright	✓	✓											
Sherry Mulhearn			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Michael J. OConnell													✓
	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007

The information presented is based upon unaudited data provided by RIRRC.

* Resigned August 28, 2007

** Resigned February 8, 2008

*** Director of Administration's designee replaced by Ronald Renaud, Executive Director - March 3, 2008

APPENDIX B

ABBREVIATED MEMORANDUM

TO: **Governor Donald L. Carcieri**

FROM: **Michael O'Connell, Executive Director**
Rhode Island Resource Recovery

Joseph J. Rodio, Esq.

DATE: **November 12, 2007**

I. Pension/Money Purchase Plan $23 million
All of the plan assets were with one money manager. One Rhode Island Resource Recovery commissioner was a paid chairman of said money manager with two commissioners having full knowledge of that fact, one of whom stated the other has investments with the same money manager.

II. EPA/DEM Trust Fund Monies $80 million
All of the trust assets were with the same money manager as the pension and the same issues apply. These particular monies were at the discretion of one of the commissioners who was chairman of the finance subcommittee. Investments were in violation of a Consent Decree.

III. Rhode Island Resource Recovery Corporation Donations totaled $2.1 million over 5 years.

- Incestuous relationship with charities
- Purchased several golf outings
- Purchased $4,000 worth of surf boards
- Invested over $80,000 in venture capital firm without any accountability

IV. Real Estate Transactions
It is projected the net loss for the development of the southern industrial park will be approximately $8 million to $10 million. The average cost for the undeveloped land was $185,000 per acre. The market value of undeveloped land is somewhere between $50,000 to $100,000 an acre.

Over $8 million was paid to Macera for 105 acres. However, approximately 95 acres of the land were wetlands and/or contaminated and nonbuildable.

Overall the price paid for land since 2000 is over $24 million and the price paid per acre is in the $160,000 range, or, two to three times the fair market value of the land. The files are typically with little or no appraisals and other documentation.

V. The accountants, appraisers, etc. servicing the Rhode Island Resource Recovery Corporation have omitted these glaring issues and even upon presentation have refused to include it in the 2007 audit report.

DETAILED MEMORANDUM

***This Memorandum addresses Confidential Personnel Matters*

TO: Governor Donald L. Carcieri

FROM: Michael O'Connell, Executive Director
Rhode Island Resource Recovery

Joseph J. Rodio, Esq.

DATE: November 12, 2007

The following is a summary of the various conflict-of-interest and related matters and issues that have been addressed and/or are currently being addressed with regard to the *Rhode Island Resource Recovery Corporation* ("RIRRC") Board of Commissioners.

1. Money Purchase Pension Plan ("Plan"):

- During the process of updating and amending the Plan's governing documents, streamlining and fortifying the Plan's administration process, and reviewing and updating the Plan's investment asset allocation and investment diversification, it was discovered that:

  • all of the Plan's assets were invested through a single concentrated investment manager/investment vehicle named the *Van Liew Trust Company*;

  • one of the RIRRC Commissioners who had taken part in the various discussions concerning the initial and continued engagement of the *Van Liew Trust Company* for the investment of Plan assets was a paid official/director/board member of the *Van Liew Trust Company*;

  • two of the other RIRRC Commissioners admitted to having full knowledge of the fact that this Commissioner was an official of the *Van Liew Trust Company; and*

  • one of the RIRRC Commissioners admitted that he was aware that another Commissioner, who had also taken part in the various discussions concerning the initial and continued engagement of the *Van Liew Trust Company* for the investment of Plan assets, had personal investments with the *Van Liew Trust Company*.

- Whether or not the two RIRRC Commissioners referenced above benefitted from their interests has not been addressed.

- This conflict-of-interest involving a RIRRC Commissioner was immediately but temporarily addressed, and the concentration of Plan assets in the *Van Liew Trust Company* is in the process of being changed to a more diversified investment program.

2. EPA/DEM Trust Funds ("EPA Funds"):

- During the process of reviewing the status of the EPA Funds' governing documents and investment program, it was discovered that:

  • all of the EPA Funds' assets were also invested through the single concentrated investment manager/investment vehicle named the *Van Liew Trust Company*;

  • the types of investments in which the *Van Liew Trust Company* had placed the EPA Funds' assets were contrary to the investment directions specifically set forth in the DEM and EPA Federal Court Consent Decrees calling for the creation of and governing the EPA Funds;

  • as with the Plan, one of the RIRRC Commissioners who had taken part in the various discussions concerning the initial and continued engagement of the *Van Liew Trust Company* for the investment of EPA Funds assets was a paid official/director/board member of the *Van Liew Trust Company*;

  • as with the Plan, two of the other RIRRC Commissioners admitted to having full knowledge of the fact that this Commissioner was an official of the *Van Liew Trust Company; and*

  • as with the Plan, one of the RIRRC Commissioners admitted that he was aware that another Commissioner, who had also taken part in the various discussions concerning the initial and continued engagement of the *Van Liew Trust Company* for the investment of EPA Funds assets, had personal investments with the *Van Liew Trust Company*.

- Whether or not the two RIRRC Commissioners referenced above benefitted from their interests has not been addressed.

- This conflict-of-interest involving a RIRRC Commissioner was addressed immediately and the concentration of Plan assets in the *Van Liew Trust Company* in inappropriate types of investments is in the process of being changed to an investment program in line with the DEM and EPA Federal Court Consent Decrees.

3. RIRRC Donation-Type Expenditures:

- It was discovered that within the past five years the RIRRC has spent approximately $2.1 million on various donations, grants, sponsorships, charitable payments, golf tournaments, etc. ("Donations").

- An investigation regarding these various expenditures revealed that in many instances:

  • the amounts of the Donations were excessive (***in fact statements have been made that the prevailing attitude over this 5-year period was essentially "if we don't spend the money the State will simply take it away"***),

  • many of the Donations had little to do with the business and interests of the RIRRC and were not in line with the statutory expenditure requirements governing the RIRRC,

  • some of the Donations were apparently made out to individuals and were not accompanied by appropriate tax reporting documents, and

  • worse, one or more RIRRC Commissioner(s) are/were affiliated in official capacities (i.e. board members, etc.) with many of the entities receiving the Donations (*see below*) - a direct conflict-of-interest.

- The following are examples of the conflicts-of-interest that have initially been discovered concerning the Donations:

  • Many Donations were for RIRRC sponsorships and participation in various Golf Tournaments, in which one or more RIRRC Commissioners also played

  • $1,200 in Donations was paid to the *Cranston Chamber of Commerce* - of which a RIRRC Commissioner is/was a member

  • $86,250 in Donations was paid to the *Diabetes Foundation of RI* - of which a RIRRC Commissioner is/was a Board Member

  • $6,000 in Donations was paid to the *Eastern Surfing Association* - of which a RIRRC Commissioner is/was a member/affiliated with - $4,000 of which was for the mere purpose of purchasing new surfboards

  • $15,000 in Donations was paid to the *Surfrider Foundation* - of which a RIRRC Commissioner is/was a member/affiliated with

  • $2,250 in Donations was paid to the *Landmark Medical Center* - of which a RIRRC Commissioner is/was a Board Member/affiliated with

  • $1,680 in Donations was paid to the *MJSA (Manufacturing Jewelers and Suppliers of America) Education Foundation* - and a RIRRC Commissioner is a

member of the *MJSA*

• $25,000 in Donations was paid to the *Narragansett Bay Commission* - of which a direct relative of a RIRRC Commissioner is/was a Board Member

• $18,886 in Donations was paid to the *RI Zoological Society* and $38,993.32 to the *Roger Williams Park Zoo* - a direct relative of a RIRRC Commissioner is/was a Trustee/Board Member

• $9,250 in Donations was paid to the *Saint Antoine Residence* - of which a RIRRC Commissioner is/was a member/affiliated with

- This process has been temporarily stopped, RIRRC expenditures are being curtailed in line with its statutory purpose and business plan, and the future goal is that the RIRRC will be able to contribute several million dollars per year in profits to the State of Rhode Island for use in its General Budget.

- Whenever these serious issues and concerns have been discussed with the RIRRC Commissioner who is the Chairman of the RIRRC Financial Subcommittee his response has been to pay these and other entities more donations.

4. RIRRC Real Estate Transactions:

- It was recently discovered that various real estate transactions involving the RIRRC over the past several years may have also involved similar themes of self-dealing, conflicts-of-interest, and excessive/above-fair market real estate purchases by the RIRRC that may have lead to and may lead to serious financial losses for the RIRRC.

- For example:

  - A Real Estate Title Company that performed much of the title work for the RIRRC's real estate transactions is owned by a relative of a RIRRC Commissioner;

  - A relative of the former RIRRC Executive Director allegedly served as a Real Estate Broker for several of the RIRRC's real estate transactions; and

  - The various appraisal values utilized to assess and determine the *fair market value* of the real estate purchased by the RIRRC are highly suspect, in that whereas the real estate transactions were in a range of between $100,000 per acre to $800,000 per acre, preliminary discussions with another appraisal expert reveal that the actual *fair market value* of this real estate in question is generally in the $50,000 per acre range.

- These matters are currently being investigated.